

SENATE RECORD VOTE ANALYSIS

104th Congress
1st Session

Vote No. 33

January 19, 1995, 10:15 p.m.
Page S-1201 Temp. Record

UNFUNDED MANDATES/Parliamentary Tactics

SUBJECT: Unfunded Mandate Reform Act of 1995 . . . S. 1. Dole motion to table the committee amendment on page 25, line 11, as modified.

ACTION: MOTION TO TABLE AGREED TO, 55-42

SYNOPSIS: Pertinent votes on this legislation include Nos. 15-32, 34-41, 43-45, and 47-61.

As reported by the Governmental Affairs Committee and the Budget Committee, S. 1, the Unfunded Mandate Reform Act of 1995, will create 2 majority (51-vote) points of order in the Senate. The first will lie against the consideration of a bill or joint resolution reported by an authorizing committee if it contains mandates and if Congressional Budget Office (CBO) cost estimates on those mandates are unavailable. The second point of order will lie against the consideration of a bill, joint resolution, motion, amendment, or conference report that will cause the total cost of unfunded intergovernmental mandates in the legislation to exceed \$50 million.

The committee amendment beginning on page 25, line 11, as modified, would strike the provision that would give the Governmental Affairs Committee in the Senate, and the Committee on Government Reform and Oversight in the House, the authority to make the final determination on whether proposed legislation contains a Federal mandate. It would also strike the provision providing that the levels of Federal mandates for a fiscal year will be determined based on the estimates of the respective budget committees. During debate, the amendment was modified to be a motion to strike and insert. The language that would be inserted would provide that in the Senate, the Presiding Officer will consult with the Committee on Governmental Affairs to the extent practicable on questions concerning whether a mandate exists in a pending matter. It would also add that in the Senate, the levels of Federal mandates for a fiscal year will be determined based on the estimates made by the Budget Committee.

During debate, Senator Dole moved to table the committee amendment. The motion to table is not debatable; however, some debate preceded the making of the motion. The debate was not on the substance of the amendment; rather, those favoring the motion to table wished to complete consideration of the remaining committee amendments and establish a timetable for offering amendments; those opposing the motion to table opposed those goals. (This motion to table was one of a series of five consecutive votes to dispose

(See other side)

YEAS (55)			NAYS (42)			NOT VOTING (3)	
Republicans (52 or 100%)		Democrats (3 or 7%)	Republicans (0 or 0%)	Democrats (42 or 93%)		Republicans (1)	Democrats (2)
Abraham	Inhofe	Bingaman		Akaka	Inouye	Helms- ²	Johnston- ²
Ashcroft	Jeffords	Byrd		Baucus	Kennedy		Leahy- ²
Bennett	Kassebaum	Heflin		Biden	Kerrey		
Bond	Kempthorne			Boxer	Kerry		
Brown	Kyl			Bradley	Kohl		
Burns	Lott			Breaux	Lautenberg		
Chafee	Lugar			Bryan	Levin		
Coats	Mack			Bumpers	Lieberman		
Cochran	McCain			Campbell	Mikulski		
Cohen	McConnell			Conrad	Moseley-Braun		
Coverdell	Murkowski			Daschle	Moynihan		
Craig	Nickles			Dodd	Murray		
D'Amato	Packwood			Dorgan	Nunn		
DeWine	Pressler			Exon	Pell		
Dole	Roth			Feingold	Pryor		
Domenici	Santorum			Feinstein	Reid		
Faircloth	Shelby			Ford	Robb		
Frist	Simpson			Glenn	Rockefeller		
Gorton	Smith			Graham	Sarbanes		
Gramm	Snowe			Harkin	Simon		
Grams	Specter			Hollings	Wellstone		
Grassley	Stevens						
Gregg	Thomas						
Hatch	Thompson						
Hatfield	Thurmond						
Hutchison	Warner						

EXPLANATION OF ABSENCE:

1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:

AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

of the remaining committee amendments pending; see vote Nos. 32-36).

NOTE: The following is a review of the parliamentary actions that occurred during the pendency of this committee amendment:

- as introduced, the amendment was a motion to strike (motions to strike are unamendable, but the text proposed to be stricken is amendable in two degrees because it is original text);
- the Senate failed to table the amendment (see vote No. 22);
- the Gorton amendment, which was a first-degree perfecting amendment to the text proposed to be stricken, was then offered; as such, it was open to either a second-degree perfecting amendment or a second-degree substitute amendment, with no other amendments in order;
- a series of second-degree perfecting amendments were offered, with several being accepted (see vote Nos. 23-25);
- during the consideration of those amendments, a modification was made to the committee amendment by the bill managers that resolved the dispute on the amendment; that modification was in order because no action had been taken on the amendment (all action had been on the Gorton amendment, which was to the language proposed to be stricken);
- the modification was made along with a unanimous consent agreement to consider any amendments that were adopted to the language proposed to be stricken as part of the language proposed to be inserted;
- the Gorton amendment was then tabled; therefore, because all the agreed-to amendments were to the Gorton amendment, the language proposed to be stricken was not amended, and no language was added to the language proposed to be inserted under the prior unanimous consent request; and
- the committee amendment was then tabled, leaving the original text intact.

Following these events, the Senate tabled the remaining committee amendments (see vote Nos. 34-36), and agreed to a unanimous consent request limiting the amendments remaining in order to S. 1. The following day, the Gorton amendment, as amended by the Dole amendment (see vote No. 23), the Bradley amendment (see vote No. 24), and the Boxer amendment (see vote No. 25) were passed as free-standing Senate resolutions by unanimous consent.

Those favoring the motion to table contended:

The Senate has been on S. 1 for more than one week. During most of that week the Senate has discussed the provisions of S. 1, with Democrats monopolizing the lion's-share of the time. Several non-germane amendments have been offered, and even a few amendments that are relevant have been considered. Unfortunately, though, we are still only half-way through considering the committee amendments to the bill, which ordinarily takes a few seconds after a bill reaches the floor. Many Senators, particularly Democrats, have indicated they have amendments to offer, but those amendments have not been forthcoming. Senators on both sides of the aisle are of the opinion that we should enter into an agreement to move this process forward. Accordingly, while the Senate was debating S. 1 today, the Republican and Democratic Leaders were meeting in an effort to work out an agreement to limit further amendments, and to set a deadline for offering them. The Leaders took the amendments that were filed as a result of the previous cloture motion, and then worked with Senators to narrow the list by removing amendments that were identical in substance. The result of these negotiations was a list of 43 Democratic amendments and 11 Republican amendments. The leaders then agreed that Senators should have until next Tuesday to offer their amendments. The Republican Leader gave his assurance that Republicans had no intention of making any bad-faith effort to keep any Senator from offering his or her amendment on the list--basically, any Senator who took the initiative within the next few days to go to the floor with an amendment on the list would be assured of getting floor consideration for that amendment. Unfortunately, some Senators objected to this proposed agreement by their Leaders, complaining that some Senators may find themselves blocked from offering their amendments before the Tuesday deadline, and that they thought an agreement to limit amendments may be premature in any event. In response, any Senator who suspects an ulterior motive in this proposed agreement is wrong. As for those Senators who say that this modest proposal is too restrictive, we wonder why they favored much more restrictive agreements in years gone by on bills that they supported.

Our colleagues should not misinterpret our comments--we are in no way complaining about our colleagues' use of the rules in objecting to this agreement. We, too, can use the rules. If our colleagues find it impossible to be accommodating, we will simply have to have more votes. We will first vote to table each of the remaining committee amendments tonight. If our colleagues object to voting on those amendments en bloc, we will vote on each amendment individually. We may even have more votes tonight, and we will certainly be voting tomorrow to try to invoke cloture, and we will vote Saturday too if need be. If progress on this bill is going to be slow, then we are going to have to stay in session for longer periods of time. We do not mean to inconvenience our Democratic colleagues who are anxious to attend a party retreat tomorrow, but we remind them that objections have only been heard from their side of the aisle. Perhaps this evening, once we are through tabling the committee amendments, we may reach an agreement to limit amendments that will be acceptable to all of our colleagues. For now, though, we must support this motion to table.

Those opposing the motion to table contended:

With the utmost respect to our colleagues, we must object to their proposed agreement. The pace on S. 1 has been satisfactory;

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if anything, the Senate has been proceeding too rapidly. An issue of this enormity is rarely before the Senate--the repercussions of our actions in passing this bill will be huge, if this bill indeed is ever passed. Our duty to our constituents, and our duty under the Constitution, is to give this bill extremely thorough consideration.

Some Senators have seemed rather anxious to prevent such consideration. In a very unorthodox and regrettable move, both committees of jurisdiction rushed their consideration of this bill and reported it without filing committee reports. Democrats in both committees objected to this failure to provide reports, but they were overruled on party-line votes. Nevertheless, most Democrats voted to report S. 1 favorably. They did so on the understanding that they would have ample time to raise questions on aspects of the bill that they did not have time to air in committee, due to the hurried treatment that it received there. As Senators are aware, we objected strenuously to the failure to issue committee reports, and that failure was belatedly rectified.

Now, though, a new error is being made. Those Senators who were promised ample debate time on the floor are facing an effort to curtail debate before they have had time to thoroughly air their concerns. Senators are now being asked to approve a limited list of amendments, and they are being told those amendments must be offered by 3:00 pm Tuesday. How can Senators know at this early stage of deliberations that the amendments on this list cover the gamut of those amendments that are worthy of consideration? Further, how do Senators know that they will have time to offer these amendments? As we all know, the offering of amendments is dependent upon the good graces of all other Senators--if a Senator monopolizes floor time, refusing to set aside a pending amendment, it will not be possible to offer any amendment on any list.

The agreement that the Leaders have proposed is thus premature and deficient, and we will of course object to its adoption. If the Republican Leader wishes to respond to our refusal to be railroaded by moving to table the committee amendments, that is his prerogative. Still, we agree that further efforts to reach an equitable agreement should be made. At this point, though, we must oppose the motion to table.